

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

WEDNESDAY, THE 28TH MARCH 2007 / 7TH CHAITHRA 1929

WP(C).No. 10928 of 2007(A)

PETITIONER:

1. SAJIKUMAR G., KUMAR BHAVAN,
THADICADU P.O., ANCHAL, WORKING AS LIVESTOCK
INSPECTOR GRADE-II, VETERINARY HOSPITAL,
THANNITHODE.
2. P.GEETHA, VISHNU BHAVAN, ULLANNOOR P.O.,
KULANADA, WORKING AS LIVESTOCK INSPECTOR GRADE II,
ICDP SUB CENTRE, KUZHIKKALA.
3. M.ABDUL SALAM, THENGUVILA PUTHENVEEDU,
PUNNALA P.O., KOLLAM DISTRICT.
WORKING AS LIVESTOCK INSPECTOR GRADE II,
ICDP SUB CENTRE, KURUMBAKARA.
4. MINI KUMARI.S., KARUBELIL HOUSE,
PARUMALA P.O., THIRUVALLA,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
RAIC., MALLAPPALLY.
5. VINOD C.,
CHANDRAVILASAM, ELAMANNOOR P.O., ADOOR,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
VETERINARY HOSPITAL, OMALLOOR.
6. REKHA K. GOPI,
KARTHIKA, KULAKKADA EAST P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
ICDP SUB CENTRE, PARAKODE.
7. SHYNI M.,
LYLA MANZIL, NEDUMON P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
THEKKUPARA.
8. SABEELA T.F.,
N.S.VILLA, NADUKKUNNU P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
ICDP SUB CENTRE, ENATHU.
9. FAZEELA M.,
GAZAL, KOTTAMUKAL, ADOOR P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
ICDP SUB CENTRE, PERINGANAD.
10. SREELETHA S.,
SARAS BHAVAN, PERUMKULAM P.O.,

WORKING AS LIVESTOCK INSPECTOR GRADE II,
DISEASE FREE ZONE UNIT, PATHANAMTHITTA.

11. DEEPA T.,
RAJAN, CHOORAKKADU P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
DFZU, PATHANAMTHITTA.
12. SUNI R.,
MINI SADANAM, KARIMPALLOOR, PATHANAPURAM,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
DFZU., PATHANAMTHITTA.
13. GEETHAKUMARI S.,
VALUTHUDIL VEEDU, MANNADY P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
ICDP SUB CENTRE, ANANDAPPALLY.
14. MINI OOMMEN,
PUTHENPEEDIKAYIL, MANTUKA P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
ICDP SUB CENTRE, MUDIYUKONAM.
15. AMBILI P.C.,
PUTHENPARAMBIL VEEDU, MEZHUVELI P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
VETERINARY DISPENSARY, CHERUKARA.
16. SUSAN T SAM.,
KUNJUVILA VEEDU, VALLIYANKAD, CHATHANNOOR.
WORKING AS LIVESTOCK INSPECTOR GRADE II,
DISEASE FREE ZONE UNIT, PATHANAMTHITTA.
17. ALI AKBAR M.,
PULIMOOTIL VEEDU, PUNNALA P.O., KOLLAM
WORKING AS LIVESTOCK INSPECTOR GRADE II,
VETERINARY HOSPITAL, MANNADI.
18. SUSAN P.JOHN,
PLATHUNDIL VEEDU, KAITHAPARAMBU P.O, ENATHU,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
DISEASE FREE SONE UNIT, PATHANAMTHITTA.
19. SHAMLA BEEGAM S.,
SHAMLA MANZIL, POONKULANJI P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
VETERINARY HOSPITAL, KALAYOOR.
20. REMADEVI S.,
THEKKEDATHU, ARUVAPULAM P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
ICDP BUS CENTRE, VALLIKKODE.
21. SILBI BALAN,
MOTTAKKATTU HOUSE, ANGADIKKAL NORTH, KAIPATTOOR,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
ICDP SUB CENTRE, VAZHAMUTTAM.
22. SUJAYA KUMARI S.,
PALLIKALAZHATHU HOUSE, ENATHU P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,

ICDP SUB CENTRE, VAIKATHILLAM.

23. NOUFALKHAN M., PALLIKKIZAHAKKETHIL,
NADUKUNNUR P.O., PATHANAPURAM,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
VETERINARY INSPECTOR, ELAMANNOOR.
24. SHAMILA BEEGAM, AKHILA NIVAS,
NADUMKUNNUR, PATHANAPURAM,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
VETERINARY HOSPITAL, KALANJOOR.
25. LEKHA K.R.,
POOTHUKUZHYYIL VEEDU, NARANGANAM P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
VETERINARY DISPENSARY, NARANGANAM.
26. LEELAMMA M.A.,
KANJIRATUMOOTIL HOUSE, PALAKKAKUZHYY P.O.,
WORKING AS LIVESTOCK INSPECTOR GRADE II,
VETERINARY HOSPITAL, MALLAPPALLY.

BY ADV. SRI.K.R.RADHAKRISHNAN NAIR

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY ITS
PRINCIPAL SECRETARY, DEPARTMENT OF FINANCE,
SECRETARIAT, THIRUVANANTHAPURAM.
2. THE SECRETARY TO GOVERNMENT,
DAIRY DEVELOPMENT, SECRETARIAT,
THIRUVANANTHAPURAM.
3. THE DIRECTOR OF ANIMAL HUSBANDRY,
THIRUVANANTHAPURAM.
4. THE DISTRICT VETERINARY OFFICER,
PATHANAMTHITTA.
5. THE ACCOUNTANT GENERAL,(A&E),
KERALA, THIRUVANANTHAPURAM.
6. THE ASST. PROJECT OFFICER,
REGIONAL A-I CENTRE,
PATHANAMTHITTA.
7. THE DISTRICT TREASURY OFFICER,
PATHANAMTHITTA.

BY GOVT. PLEADER SHRI. P.NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28/3/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.K.DENESAN, J.

WP(C) .No. 10928 OF 2007 A

Dated this the 28th March, 2007.

JUDGMENT

The petitioners are Live Stock Inspectors Gr.II in the Department of Animal Husbandry. Before regular appointment through Public Service Commission the petitioners had rendered provisional service in the same post. According to the respondents the petitioners are not eligible to draw D.A during the provisional period of service. But mistakenly D.A was paid to them. Now the amount thus paid is sought to be recovered from the petitioners. Exts.P3 and p4 orders have been challenged in the above background.

2. Counsel for the petitioners submits that D.A was paid by the District Veterinary Officer taking note of Government Orders issued on that subject as also the order of the Director of the Department. Having allowed to draw that amount it is unjust on the part of the respondents to direct recovery of the amount from the respondents in lump and that too without issuing notice or affording opportunity to the petitioners to put forward their case.

3. Heard Govt. Pleader for the respondents.

4. I do not consider it necessary to go into other grounds raised by the petitioner impugning Exts.P3 and P4, as I am satisfied that an order in the nature of Exts.P3 and P4 ought not to have been issued without issuing notice

to the petitioners and affording them opportunity of being heard. For the above reason Exts.P3 and P4 are liable to be set aside. However, justice can be done to the petitioners by adopting a different course and directing the respondents to treat Exts.P3 and P4 as show cause notices so that final orders can be passed after considering the explanation, if any, submitted by the petitioners in response to the notice. Accordingly the writ petition is disposed of directing the fourth respondent to treat Exts.P3 and P4 as show cause notices and to take final decision only after considering representations already filed by the petitioners and further representations, if any, to be filed by them within one month from today. It is open to the petitioners to file additional representations within the aforesaid time limit highlighting all legal and factual aspects in support of their case that no recovery need be made. The fourth respondent shall pass final orders thereafter as expeditiously as possible. Till such time steps to recover the alleged excess amount paid to the petitioners as D.A, shall be kept in abeyance.

K.K.DENESAN
Judge